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6 UNITED STATES DISTRICT COURT
7 WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

8 JOSHUA ALLAN GAULKE,

9 Plaintiff,

10 v.

11 BOBBY COLLINS, et al.,

12 Defendants.

CASE NO. C18-1364 RSM

ORDER GRANTING VOLUNTARY
DISMISSAL

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14 This matter comes before the Court on Plaintiff's January 3, 2018 filing (the "Motion").
15 Dkt. #5. While the Motion is somewhat unclear, the Court interprets it primarily as an ex parte
16 motion for voluntary dismissal under Federal Rule of Civil Procedure 41. Accordingly, the
17 motion is properly considered on the date of filing.¹ LCR (d)(1).

18 Plaintiff's underlying claim appears to arise from an assault by an individual under the
19 supervision of U.S. Probation and Pretrial Services. Dkt. #1. Plaintiff filed the lawsuit on
20 September 14, 2018. *Id.* No defendant has appeared in this action and from Plaintiff's Motion,
21 it does not appear that any defendant has been served. Dkt. #5. Plaintiff indicates that he has
22 been unable to comply with the Court's order to hold a Rule 26(f) conference despite his efforts
23 to meet with U.S. Probation and Pretrial Services' Chief Probation Officer for the Western
24 District of Washington. Dkts. #4 and #5 at 1. Plaintiff goes on to indicate that he has become
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¹ The Court also notes that no Defendant has appeared in this action.

1 aware of legal issues and seeks the Court's advice on how to proceed.² Dkt. #5 at 2–4. Plaintiff
2 alternatively requests that the Court dismiss this case without prejudice so that he may refile and
3 indicates that he plans to exclude two defendants. Dkt. #5 at 4.

4 The only clear relief sought by Plaintiff's Motion is a dismissal with prejudice and the
5 Court finds it appropriate to interpret the Motion as such. Pursuant to Rule 41, Plaintiff may
6 dismiss this action without an order of the Court because no opposing party has either served "an
7 answer or a motion for summary judgment." Fed. R. Civ. P. 41(a)(1)(A)(i). Additionally, the
8 Court notes that dismissal is proper under Rule 4(m) as Plaintiff does not indicate that he has
9 served any defendant. Rule 4(m) provides for dismissal of defendants who have not been served
10 by Plaintiff within 90 days of filing the complaint. Fed. R. Civ. P. 4(m).

12 Accordingly, the Court hereby finds and ORDERS that:

- 13 1. Plaintiff's claims are DISMISSED without prejudice;
14 2. This matter is CLOSED; and
15 3. The Clerk shall send a copy of this Order by U.S. Mail to Plaintiff at: 1729 E. 41st Street,
16 Tacoma, WA 98404.

18 Dated this 4th day of January 2019.

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21 RICARDO S. MARTINEZ
22 CHIEF UNITED STATES DISTRICT JUDGE
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² The Court cannot provide Plaintiff legal advice.